

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Definition of Markets for) CS Docket No. 95-178
Purposes of the Cable)
Television Mandatory Television)
Broadcast Signal Carriage Rules)

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REPLY COMMENTS OF GTE

GTE Service Corporation, on behalf of its affiliated domestic telephone companies and GTE Media Ventures Incorporated, respectfully submits this Reply to the comments filed in response to the Commission's Notice of Proposed Rulemaking, FCC 95-489, released December 8, 1995 ("*Notice*"), in the above captioned proceeding.

In the *Notice*, the Commission requested comment on a revised method of defining markets for purposes of applying the cable television broadcast signal carriage rules. Under existing rules, broadcast stations can assert their mandatory carriage rights on those cable systems located within the station's market area as determined by Arbitron's "areas of dominant influence" ("ADI").¹ Arbitron no longer publishes its list of ADIs; therefore, the Commission has proposed (1) substituting Nielsen Designated Market Areas ("DMA") for ADI; (2) continuing the use of ADIs subject to review and

¹ 47 C.F.R. § 73.3555(e)(3)(i).

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revision via Section 614(h); or (3) retaining existing ADI definitions for 1996 and switching to DMAs thereafter. *Notice* at 4.

The Commission tentatively concludes that the second of these options is preferable. GTE agrees. As the National Cable Television Association (NCTA) observes (at 4), revising existing station line-ups to comply with a completely new standard would only confuse and alienate the viewing public. As the Commission is aware, substantial public opposition and frustration occurred as the 1992 must-carry and retransmission consent provisions were implemented. The implementation of these rules resulted in extensive channel realignments, often in conflict with subscriber's established viewing patterns. Certainly, there is no public interest benefit to be gained by once again disrupting established channel line-ups on such an extensive scale as would be required if entirely new market area definitions were adopted.

Modifying the signal carriage market definition would also force cable operators and broadcasters to reassess the status of every station, resulting in substantial administrative costs and burdens on both parties. In addition, many new market entrants, such as LECs planning to operate cable systems under Title VI or Open Video Systems under rules shortly to be promulgated, are beginning the process of determining their potential must-carry obligations and likely channel line-ups for initial service roll-out. Altering the market area designations of local broadcast stations for purposes of the must-carry rules would only frustrate the efforts of these new providers to effectively enter and compete in local cable markets.

GTE believes that the Commission should reject the self-serving efforts of the broadcast industry which seek to encourage much broader definitions of market areas, such as the use of DMAs, in order to benefit individual stations at the expense of the viewing public. For example, broadcasters claim (without any supporting facts or data) that adopting the DMA standard would have a "negligible impact" on cable television subscribers.² However, as NCTA correctly notes (at 7-8), changes in a single broadcast station's market designation in the Washington, D.C. area could potentially impact over 1.5 million households -- hardly a negligible amount.

The Commission can reasonably balance the interests of subscribers, broadcasters, and cable operators by retaining the ADI market designations and allowing changes to individual market definitions to be submitted through the Section 614(h) process. This would allow broadcasters to justify requests for changes in a station's market area definition as changes to population or audience viewing levels dictate. Indeed, the comments of broadcasters offer no reasons why the Section 614(h) process could not be used to propose justifiable changes to a station's defined market area.³

² See Joint Comments of Evening Post Publishing Co.; Hubbard Broadcasting, Inc.; Paxson Communications Corporation and Wabash Valley Broadcasting Corporation ("Joint Parties"), at 6.

³ Changing the market definition standard could also prove to be detrimental to those communities which have already been revised under Section 614(h). See NCTA, at 7.

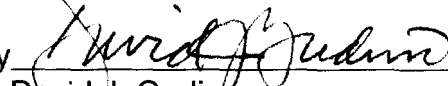
In summary, GTE urges the Commission to maintain its reliance on the existing ADI market definitions for purposes of determining broadcast signal carriage obligations and allow changes to such markets areas to be made under the process set forth under Section 614(h).

Respectfully submitted,

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Certificate of Service

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